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REMARKS**I. INTRODUCTION**

Claims 1, 26, 27, 34, 35, 38, 41, 60, 67 and 68 are amended. Claims 16-25 and 62-64 are canceled. Claims 65, 66 and 71-73 have been withdrawn. No new matter has been added. Claims 1-15, 26-61 and 67-70 are pending in the present application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN

Claims 1-13, 29-61 and 68-70 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,401,074 to Sleeper. (See 11/21/06 Office Action, ¶ 3).

Sleeper describes an augmented point of sale (POS) system that displays, during a retail transaction, promotional information to a customer selected on the basis of the context of the transaction. (See Sleeper, Abstract). The augmented POS, or promotional retailing system (PRS), consists of a new generation POS system (PC 102, display monitor 104, cash drawer component 108, printing device 110) used at a check out counter 111, and further includes an auxiliary display device 602. (*Id.* at col. 6, lines 1-10). As described by Sleeper, a retail transaction includes various events "E." (*Id.* at col. 6, lines 43-46). For example, an identification of a consumer using a membership card is an event. (*Id.* at col. 6, lines 50-58). Other examples of events include: an end to a scan input (step 408), display of a price (step 412), adding to a list of items (step 416) and deleting from the list of items (step 422). (*Id.* at col. 7, lines 11-14). For each designated event, the PRS may carry out the event and display promotional material, informational messages, discounts and specials on the auxiliary display device 602. (*Id.* at col. 7, lines 56-67).

Claim 1 has been amended to recite a method including the steps of “*calculating a busyness metric* indicative of a busyness of the POS location” and “*determining an advertisement (ad) from a set of available ads for display in one of the time frames as a function of (i) the busyness metric*, wherein if the busyness metric exceeds a busyness threshold value the ad is selected from a portion of the available ads having a duration that is less than a predetermined duration, *(ii) a priority level of the ad*, wherein the priority level is manually adjustable at any time during the transaction, and *(iii) an ad campaign* including a plurality of ads, at least one of which is a sponsor ad, wherein a determination is made as to whether a conflict exists between the determined ad and the sponsor ad” and “prior to displaying the ad, setting a minimum duration for the ad, wherein the minimum duration is independent of a predetermined duration of the ad” in combination with “displaying the ad in the one of the time frames” and “during the displaying, *recalculating the busyness metric*, wherein if the recalculated busyness metric exceeds the threshold value, the predetermined duration of the ad is reduced.”

It is respectfully that Sleeper does not teach or suggest the limitations recited in claim 1. In particular, Sleeper does not disclose or suggest “calculating a busyness metric indicative of a busyness of the POS location” and “determining an advertisement (ad) from a set of available ads for display in one of the time frames as a function of (i) the busyness metric, wherein if the busyness metric exceeds a busyness threshold value the ad is selected from a portion of the available ads having a duration that is less than a predetermined duration.” As described in the specification of the present invention, a transaction system determines busyness from a characteristic metric of a POS system crossing a predetermined threshold. On recognition of a busy time, the transaction system may select only non-interactive ads or ads of sufficiently short duration. (See Specification, p. 33, lines 2-14). In contrast, the only determining factors of whether a particular message in Sleeper’s system is played are the triggering events.

In addition, Sleeper does not disclose or suggest determining an ad for display as a function of “a priority level of the ad, wherein the priority level is manually adjustable at any time during the transaction,” as recited in claim 1. As described in the specification of the

present invention, a weighted score is assigned to each ad to determine its priority. (See Specification, p. 18, lines 26-32). In contrast, Sleeper places messages on a queue and dequeues them to form viewable web pages. (See Sleeper, col. 1, lines 62-66). No indication is given by Sleeper that the order in which the messages are placed in the queue can be changed.

Sleeper also does not disclose or suggest determining an ad for display as a function of "an ad campaign including a plurality of ads, at least one of which is a sponsor ad, wherein a determination is made as to whether a conflict exists between the determined ad and the sponsor ad," as recited in claim 1. As described in the specification of the present invention, the transaction system identifies, as part of an ad campaign, ads from sponsors that compete with or fail to meet the requirements of a merchant. The system may then defer to human intervention to exclude the unacceptable sponsor or at least one of the competing ads. (See Specification, p. 33, lines 17-23). In contrast, Sleeper never mentions that the messages are sponsored, nor does Sleeper ever suggest an ad campaign that includes a plurality of ads, where ads are checked for conflicts before they are displayed. As long as an appropriate triggering event occurs, the messages are automatically added to the queue.

Sleeper also does not disclose or suggest "prior to displaying the ad, setting a minimum duration for the ad, wherein the minimum duration is independent of a predetermined duration of the ad," as recited in claim 1. As described in the specification of the present invention, the transaction system has a system-wide minimum ad duration and the duration of a particular ad can be a natural-number multiple of the system-wide minimum ad duration. (See Specification, p. 17, lines 9-13). In contrast, Sleeper says nothing regarding the actual display of the messages. As discussed above, Sleeper only states that the events are dequeued to form the messages. Sleeper never describes whether the messages are played in their entirety or whether the messages can be preempted by other events. Thus, Sleeper does not disclose any information regarding a duration of a message, let alone a minimum duration thereof.

Sleeper also does not disclose or suggest “during the displaying, recalculating the busyness metric, wherein if the recalculated busyness metric exceeds the threshold value, the predetermined duration of the ad is reduced,” as recited in claim 1. As described in the specification of the present invention, the transaction system may adjust the duration of an ad based on a recognition of a busy time. (See Specification, p. 33, lines 7-11). In contrast, Sleeper is governed solely by the triggering events and is unrelated to a busyness metric. Thus, threshold values have no place in the display of messages according to Sleeper.

Based on at least the reasons discussed above, it is respectfully submitted that claim 1 is allowable. Because claims 2-13 and 29-59 depend from, and, therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claim 60 recites “calculating *a busyness metric* as a function of a frequency of transactions performed at the POS location” and “during the transaction, receiving a second ad from the set of available ads for display during a second time frame when the transaction meets predetermined criteria” and “determining whether the first and second ads should be displayed, *wherein the determination for each ad is a function of (i) the busyness metric*, wherein if the busyness metric exceeds a busyness threshold value the ad is selected from a portion of the available ads having a duration that is less than a predetermined duration, *(ii) a priority level of the ad*, wherein the priority level is manually adjustable at any time during the transaction, and *(iii) an ad campaign* including a plurality of ads, at least one of which is a sponsor ad, *wherein a determination is made as to whether a conflict exists* between the determined ad and the sponsor ad” and “prior to displaying each ad, *setting a minimum duration* for the ad, wherein the minimum duration is *independent of a predetermined duration* of the ad” and “displaying the first and second ads, wherein during the display of each ad, *the busyness metric is recalculated and the predetermined duration of the ad is adjusted as a function of the busyness metric*, and wherein if the recalculated busyness metric exceeds the threshold value, the predetermined duration of the ad is reduced.”

Therefore, it is respectfully submitted that claim 60 is allowable for at least the reasons stated above with reference to claim 1, and that the rejection of this claim should be withdrawn. Because claim 61 depends from, and, therefore includes all of the limitations of claim 60, it is respectfully submitted that this claim is also allowable.

Claim 68 recites "determining an ad from a set of available ads for display in one of the time frames, *wherein the determination is a function of (i) a busyness metric*, wherein if the busyness metric exceeds a busyness threshold value the ad is selected from a portion of the available ads having a duration that is less than a predetermined duration, *(ii) a manually adjustable priority level of the ad*, and *(iii) an ad campaign* including a plurality of ads, at least one of which is a sponsor ad, wherein *a determination is made as to whether a conflict exists between the determined ad and the sponsor ad*" and "prior to displaying the ad, *setting a minimum duration for the ad*, wherein the minimum duration is *independent of a predetermined duration of the ad*" and "displaying the ad in one of the time frames" and "*adjusting the duration of the ad based on the busyness metric.*"

Therefore, it is respectfully submitted that claim 68 is allowable for at least the reasons stated above with reference to claim 1, and that the rejection of this claim should be withdrawn. Because claims 69 and 70 depend from, and, therefore include all of the limitations of claim 68, it is respectfully submitted that these claims are also allowable.

Claims 14, 15 and 26-28 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Sleeper in view of U.S. Patent 6,456,981 to Dejaeger et al. ("Dejaeger"). (See 11/21/06 Office Action, ¶ 59).

Dejaeger describes an apparatus for displaying a customized advertising message. (See Dejaeger, Abstract). A self-service checkout terminal displays the message and generates an output signal when the entire message has been displayed. The message is displayed in its

entirety. (*Id.* at col. 14, line 60 - col. 15, line 3).

It is respectfully submitted that Dejaeger fails to cure the deficiencies of Sleeper and that neither Dejaeger nor Sleeper, either alone or in combination, discloses or suggests “calculating a busyness metric indicative of a busyness of the POS location” and “determining an advertisement (ad) from a set of available ads for display in one of the time frames as a function of (i) the busyness metric, wherein if the busyness metric exceeds a busyness threshold value the ad is selected from a portion of the available ads having a duration that is less than a predetermined duration, (ii) a priority level of the ad, wherein the priority level is manually adjustable at any time during the transaction, and (iii) an ad campaign including a plurality of ads, at least one of which is a sponsor ad, wherein a determination is made as to whether a conflict exists between the determined ad and the sponsor ad” and “prior to displaying the ad, setting a minimum duration for the ad, wherein the minimum duration is independent of a predetermined duration of the ad” in combination with “displaying the ad in the one of the time frames” and “during the displaying, recalculating the busyness metric, wherein if the recalculated busyness metric exceeds the threshold value, the predetermined duration of the ad is reduced,” as recited in claim 1. Thus, claims 14, 15 and 26-28, which depend from, and, therefore include the limitations of claim 1 should be allowable for at least the same reasons.

Claim 67 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Sleeper in view of Dejaeger and further in view of U.S. Patent 6,615,183 to Kolls. (*See* 11/21/06 Office Action, ¶ 67).

Claim 67 recites “determining on the ad-management service, based on the information, an ad from a set of available ads for display, wherein the determination is a function of (i) a busyness metric, wherein if the busyness metric exceeds a busyness threshold value the ad is selected from a portion of the available ads having a duration that is less than a predetermined duration, (ii) a manually adjustable priority level of the ad, wherein the priority level for an ad for display when the transaction meets predetermined criteria (a “specific ad”) is by default

higher than the priority of an ad for display when no specific ad is available, and (iii) *an ad campaign including a plurality of ads, at least one of which is a sponsor ad, wherein a determination is made as to whether a conflict exists between the determined ad and the sponsor ad*” and “prior to displaying the ad, *setting a minimum duration for the ad*, wherein the minimum duration is *independent of a predetermined duration of the ad*” and “if the ad is displayed in the one time frame, *adjusting a duration of the ad based on the busyness metric.*”

Kolls discloses a universal advertising and payment system. (See Kolls, Abstract). Ads are distributed to systems or vending machines throughout a network, and each machine determines if a received ad can be displayed at the time the ad is received. (Id. at col. 23, lines 8-16). It is respectfully submitted that Kolls is insufficient to cure the deficiencies of Sleeper and Dejaeger and that claim 67 is allowable for at least the same reasons discussed above with reference to claim 1.

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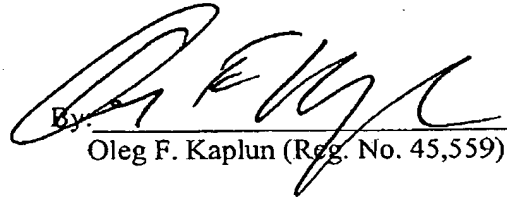
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III. CONCLUSION

In light of the foregoing, Applicants respectfully submit that all of the now pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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